

UNITED STATES OF AMERICA v. ARLANDIS SHY  
Status Conference

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
UNITED STATES OF AMERICA,  
Plaintiff, Case No. 15-20652-13  
-vs-  
ARLANDIS SHY, II Defendant.  
Detroit, Michigan  
September 26, 2017

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TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE GEORGE CARAM STEEH  
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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*Status Conference*

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**Proceedings taken by mechanical stenography, transcript  
produced by computer-aided transcription**

**UNITED STATES OF AMERICA v. ARLANDIS SHY**  
**Status Conference**

Detroit, Michigan

Tuesday, September 26, 2017

(At about 1:05 p.m.)

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(Call to Order of the Court)

THE CLERK OF THE COURT: Case number 15-20652, United States of America versus Corey Bailey, Robert Brown, Arlandis Shy, Keithon Porter, James Robinson and Eugene Fisher.

THE COURT: Good afternoon.

MR. GRAVELINE: Good afternoon, Your Honor. Chris Graveline, Justin Wechsler and Julie Finocchiaro on behalf of the United States.

THE COURT: Welcome. Defense Counsel want to state their appearances?

MR. FEINBERG: James L. Feinberg for -- attorney for Robert Brown, and also standing in for my learned counsel, Jack Martin.

THE COURT: Thank you.

MR. STEVEN SCHARG: Good afternoon, Your Honor. Steven Scharg on behalf of Mr. Porter.

THE COURT: Welcome.

MR. SPIELFOGEL: Good afternoon, Your Honor. Keith Spielfogel on behalf of Corey Bailey.

THE COURT: Welcome.

MR. MAGIDSON: Good afternoon, Your Honor. Mark

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1 Magidson on behalf of Arlandis Shy and I'm also standing in for  
2 John Theis, learned counsel.

3 THE COURT: Welcome.

4 MR. SWOR: William Swor on behalf of Mr. Robinson,  
5 Your Honor.

6 THE COURT: Okay, welcome.

7 MR. MINOCK: John Minock on behalf of Mr. Bailey.

8 THE COURT: Welcome.

9 MR. HENRY SCHARG: Henry Scharg on behalf of Eugene  
10 Fisher.

11 THE COURT: Welcome. All right. This was  
12 established as a status conference as well as a motion hearing  
13 on Mr. Bailey.

14 MR. GRAVELINE: That's correct, Your Honor. I'm not  
15 sure which one you want to take up first.

16 THE COURT: Probably the status conference first.

17 MR. GRAVELINE: Okay. The reason we asked for this  
18 status conference, Your Honor, is there's been a continuance in  
19 Trial Group's One trial from October 10th to January 23rd. I  
20 think that's going to impact this Trial Group's trial date as  
21 well.

22 The basis for that continuance was the amount of discovery  
23 that had been produced to the lawyers for Trial Group One and  
24 for Trial Group Two as well. So as I explained with the Trial  
25 Group One, a lot of this information, including evidence off of

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1 co-defendants' cell phones or Facebook accounts had to be  
2 sifted through and as we started putting together our exhibit  
3 lists, we were handing over anywhere between 500 to a thousand  
4 pages worth of materials from various different co-defendants'  
5 Facebooks and/or cell phones that will be used against all of  
6 the Defendants in the trials; that information being provided  
7 to Trial Group Two at the same time it's being provided to  
8 Trial Group One. The lawyers for Trial Group One asked for  
9 additional time to process that material and that's what led to  
10 the continuance in the other trial. But because that trial  
11 starting January 23rd, I do not believe we'll be in a position  
12 to start this trial on February 5th as originally scheduled.

13 So I asked the lawyers and the Court to schedule a status  
14 conference so we can discuss a realistic trial date for this  
15 particular Trial Group based upon what's been going on within  
16 the case itself.

17 THE COURT: And in your view do you have the earliest  
18 time that you -- do you have in mind a date by which to start?

19 MR. GRAVELINE: Well, based upon the first trial I  
20 think if we start on January 23rd, we will be done I believe by  
21 the end of March with that case.

22 Based upon conversations with your Case Manager, we began  
23 to look into May, but more realistically June 5th as being a  
24 realistic trial date for this particular Trial Group. And so  
25 that's what I was going to propose to the Court and to Defense

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1 Counsel as the proposed new trial date for this group,  
2 essentially moving this Trial Group back approximately four  
3 months from when it was originally scheduled.

4 THE COURT: Okay, thanks. Input from Defense Counsel?

5 MR. FEINBERG: On behalf of Mr. Brown, Mr. Brown has  
6 been in jail since -- for a long, long time and is quite upset  
7 that he is not going to be going to trial as it originally was  
8 scheduled. He understands that the mitigation petition has not  
9 been filed yet and we're still -- Mr. Martin is still in the  
10 process. So I'm just indicating to you Mr. Brown objects to  
11 any extension, so I don't know how the Judge wants to play  
12 that, but he's not in the first group so therefore, the Court  
13 will set whatever date it desires, but Mr. Brown is objecting.

14 MR. STEVEN SCHARG: Judge, on behalf of Mr. Porter I  
15 agree with Mr. Feinberg. We believe that the delay is very  
16 prejudicial for Mr. Porter. He's objecting to the adjournment.

17 THE COURT: Okay, thank you.

18 MR. SPIELFOGEL: Your Honor, Keith Spielfogel. Corey  
19 Bailey also objects to any continuance at this point. He has  
20 been in custody for quite some time preparing for this trial.  
21 We don't want it continued three months, Judge.

22 THE COURT: Thank you. Anyone else?

23 MR. MAGIDSON: Mr. Shy has been locked up for 19  
24 months, Your Honor. The Courts aware of prior motions that  
25 have been filed on his behalf regarding speedy trial, so he

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1 does object.

2 THE COURT: Thank you. Mr. Swor?

3 MR. SWOR: Mr. Swor -- no, I'm Mr. Swor. Mr. Robinson  
4 objects to the continuance, Your Honor.

5 THE COURT: Thank you, Mr. Swor. Mr. Scharg?

6 MR. HENRY SCHARG: We take no position on this.

7 THE COURT: Thank you. Well, there's only one Court  
8 to try these cases and following the conclusion of an  
9 eight-week trial, there are going to be undoubtedly issues  
10 raised that will still need to be resolved before the second  
11 group can go to trial, so there really is no viable option to  
12 undertaking an adjournment of the case if this motion is --  
13 there's a pending motion from one of the Defendants by Counsel  
14 to withdraw, that preparation that's going to have to be  
15 undertaken by a replacement if that motion is granted is going  
16 to put everybody back. That's all there is to it.

17 MR. FEINBERG: Judge, can I offer a suggestion? If  
18 Mr. Brown is released on some kind of a bond, we will not  
19 object to a delay.

20 THE COURT: All right.

21 MR. SWOR: I would join in that comment.

22 MR. MAGIDSON: As would I.

23 MR. STEVEN SCHARG: We all too, Your Honor.

24 THE COURT: Not a surprise, but I think there would  
25 have to be other reasons to support considering that than the

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1 delay because the --

2 MR. FEINBERG: (Interjecting) Due process certainly is  
3 a reason. There's also a presumption of innocence.

4 THE COURT: All right. Well, we're going to have to  
5 adjourn and the question is the date. So the question for  
6 Defense Counsel is whether the date is as early as -- you said  
7 the end of May or as late as June 4th, right?

8 MR. GRAVELINE: That's what we were looking at. So  
9 just based upon your schedule, it looked like maybe the  
10 earliest possible could be May 21st. However, that is the week  
11 right before Memorial Day, and so what we looked at then was  
12 just making it June 5th, it's the first Tuesday in June. It is  
13 approximately 120 days from the original trial date in the  
14 case.

15 I would also add that this would also push all the other  
16 deadlines in the case back as well, so I believe right now  
17 there's a motion cutoff date. That would get pushed back as  
18 well to give the attorneys additional time for motions as well  
19 as the mitigation now. I'll defer to Defense Counsel when they  
20 want to submit the mitigation packets, but I was going to  
21 propose by no later than December 1st, but if they want to  
22 submit them earlier or if they have some inclination to submit  
23 them later, but that was going to be my proposal today.

24 THE COURT: So as it relates to mitigation?

25 MR. SPIELFOGEL: Yes, two things. First of all,

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1 Judge, I don't think there is a cut-off date set for motions in  
2 this case.

3 MR. GRAVELINE: I thought -- and I ordered the  
4 transcript. I didn't do a good job of note-taking the last  
5 time, but I thought the last time we talked it was October 1st  
6 and for this Trial Group based upon the others, but if that's  
7 not the case, that's not the case and we can set whatever  
8 motion date we want then.

9 MR. SPIELFOGEL: Also the second thing is on December  
10 1st date for mitigation packet, my understanding was that we  
11 were not to submit a mitigation packet other than the first  
12 Defendant in this case, Mr. Arnold, so we have ceased to  
13 continue putting that together because we were on hold.

14 MR. GRAVELINE: Well, I can tell you the status is  
15 this is it's in Washington, D.C. now. The decision has not  
16 been made on Mr. Arnold to date. We have not been asked to go  
17 to Washington, D.C. as of yet, which usually indicates  
18 potentially not -- I'm not -- no information has been given me  
19 one way or the other in terms of that, but I'm just saying  
20 stating as a fact we have not been asked prior to the October  
21 10th trial date. Washington, D.C. now knows they have until  
22 January 23rd, but that's the most I can share right now.

23 In terms of yes -- well, what I was hoping to do was find  
24 out what Washington -- how Washington, D.C. stood on Mr. Arnold  
25 in this case and that would help inform everyone as to their

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1 particular clients. If I gave the estimation (sic) that no  
2 packet was necessary for any of their clients, then that's on  
3 me and that's a mistake. People should be preparing mitigation  
4 packets for each of their Defendants. Now that might be  
5 informed by whether somebody -- whether Mr. Arnold is either  
6 sought or not sought against because that goes to one of the  
7 factors in the death penalty protocol, but that doesn't mean  
8 that no mitigation package should be prepared in the case and  
9 if I gave that impression the last time, I apologize, but that  
10 was not my intention. I think anyone who is facing a  
11 death-eligible charge should be preparing a mitigation packet  
12 for their particular client.

13 MR. SPIELFOGEL: Then there was a total  
14 miscommunication, so we will start moving again on that.

15 THE COURT: Undertake -- and do you have --

16 MR. SPIELFOGEL: December 1st is fine.

17 MR. FEINBERG: Mr. Martin has indicated to me that he  
18 would like until the beginning of January; that he's having  
19 problems getting certain information specifically from Social  
20 Security and without getting all of the information, he's not  
21 going to be able to -- he and the mitigation specialists are  
22 not going to be able to comply at least by December because I  
23 spoke to him yesterday and he said beginning of January.

24 THE COURT: Okay. So beginning of January, the first  
25 week or two?

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1 MR. FEINBERG: Yes, for the deadline for the  
2 mitigation.

3 THE COURT: Any objection to that?

4 MR. GRAVELINE: No, Your Honor. Then if we're going  
5 to do that for Mr. Brown, I think we do that for everybody  
6 then.

7 MR. SPIELFOGEL: I was just going to ask that, Judge.

8 MR. GRAVELINE: So let's not make it January 1st -- I  
9 think that's unrealistic, but --

10 THE CLERK OF THE COURT: (Interjecting) January 5th  
11 is a Friday.

12 MR. GRAVELINE: Let's do that. January 5th.

13 THE COURT: Any other deadlines that need to be  
14 considered?

15 MR. GRAVELINE: I think -- well, just the trial date  
16 and then the motion cutoff and motion cutoff would be driven by  
17 the trial date.

18 THE COURT: Right. Okay, so trial we have the last  
19 couple of weeks of May potentially and the first week of June  
20 as possible start dates.

21 MR. STEVEN SCHARG: Judge, may I? I informed Mr.  
22 Graveline I'm on the Latin Count case and we are scheduled for  
23 trial now in April. They just adjourned our case to April  
24 because I thought this case was going in January. I don't know  
25 how long that case will take. Right now there's two

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1 Defendants. It might just be my client, but I don't know how  
2 long the Government plans on taking. I don't know if that will  
3 run into a May or June trial date.

4 THE COURT: Have they previously given you an idea how  
5 long they think the trial will last?

6 MR. STEVEN SCHARG: Not that I recall, Your Honor.

7 THE COURT: What Judge has that case?

8 MR. STEVEN SCHARG: Judge Levy.

9 THE COURT: Do you know anything about it?

10 MR. GRAVELINE: I do. I think realistically I would  
11 say it's going to be a four-week long trial.

12 THE COURT: So that would be --

13 MR. GRAVELINE: If it's just Mr. Scharg's client that  
14 goes, I think it's probably going to be a two-week long trial.

15 MR. STEVEN SCHARG: Just a note.

16 THE COURT: Obviously there's a lot more flexibility  
17 left to the Judge in that case if there are only one or two  
18 Defendants who are going than we have in ours. Mr. Swor.

19 MR. SWOR: Your Honor, we may have a conflict with a  
20 drug case I have with Judge Cohn. I don't know yet. That  
21 trial may start January 29th, but if it doesn't, then we have a  
22 conflict, but this is an older case and this has more  
23 Defendants and --

24 THE COURT: Judge Cohn is so easy to deal with, isn't  
25 he?

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1 MR. SWOR: Yes. Just thought you'd want to know.

2 THE COURT: Okay. All right. So I guess I still  
3 haven't had anybody identify what would work best. I gather  
4 for -- is it Mr. Scharg who has the start --

5 THE CLERK OF THE COURT: April trial.

6 THE COURT: In April? So probably the earlier the  
7 better for you?

8 MR. STEVEN SCHARG: No, a later date. June.

9 THE CLERK OF THE COURT: No, later. June 5th?

10 THE COURT: Okay. That would argue for June 5.  
11 Anybody have any particular issue with June 5? Hearing no  
12 problems, we'll set it for June 5 and then plea cutoff, what  
13 would you suggest?

14 MR. GRAVELINE: Well, everyone at that point will have  
15 the Jencks material, so I think we could probably set it for a  
16 month out from the trial. That way we'll know one way or the  
17 other who will be going to trial. There won't be anything in  
18 terms of reviewing the Jencks. When we release the Jencks for  
19 the first trial group, we'll be giving it to everyone.

20 THE COURT: Good.

21 THE CLERK OF THE COURT: Maybe June 4th? Is that  
22 enough time?

23 MR. GRAVELINE: May 4th you mean?

24 THE CLERK OF THE COURT: Oh, May. I'm sorry.

25 THE COURT: I think we were trying to avoid the

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1 potential conflict with Mr. Scharg, so he was asking --

2 MR. GRAVELINE: (Interjecting) No, for the plea  
3 cutoff.

4 THE CLERK OF THE COURT: It's just a plea cutoff.  
5 Maybe the afternoon of April 30th?

6 MR. GRAVELINE: That's fine with the Government.

7 THE CLERK OF THE COURT: A Monday?

8 MR. SPIELFOGEL: So, Your Honor, can we put down a  
9 motion cutoff date?

10 THE COURT: Yes.

11 THE CLERK OF THE COURT: At least a month before that.

12 MR. GRAVELINE: I would think we probably want to set  
13 that maybe even two months beforehand. That way there's  
14 motion, response, potentially even hearing, maybe resolution of  
15 motions before the plea cutoff date. So if I could propose if  
16 it's April 30th, maybe like a February 15th motion cutoff or  
17 something along those lines. Then we'll be responding in March  
18 and then if the Court needs to have hearings and then have --  
19 issue opinions, that's in April and everybody kind of knows  
20 where the evidence is and Jencks material and all of that  
21 beforehand.

22 THE COURT: Right.

23 THE CLERK OF THE COURT: February 15 for motion  
24 cutoff?

25 MR. SPIELFOGEL: February 15 for motion cutoff would

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1 be fine, Judge.

2 THE COURT: Okay.

3 MR. STEVEN SCHARG: Could we have a date for Jencks  
4 material to be released by the first group?

5 MR. GRAVELINE: It's going to be a month before trial  
6 which is January 23rd. If you take a look at the calendar,  
7 January 24th and 25th are on the holiday and it's on a weekend,  
8 so I'll be releasing it December 26th, the day after Christmas.

9 MR. FEINBERG: Is that Jencks just for the first  
10 group?

11 MR. GRAVELINE: It will be Jencks for everyone.

12 THE COURT: For everybody. So include witness  
13 statements.

14 MR. GRAVELINE: Yes.

15 THE COURT: So that will facilitate your preparation  
16 for the trial significantly. Mr. Swor?

17 MR. SWOR: I think we want to -- I'd like to hear the  
18 Government's belief of what that -- how that impacts the  
19 Protective Order and our ability to share the information with  
20 our clients so that we can prepare both for trial and for  
21 motions.

22 MR. GRAVELINE: So this is what we worked out with  
23 Trial Group One and I emailed all Counsel in the case to  
24 include this Trial Group and Trial Group Three.

25 What we've already done is we've given the Jencks material

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1 for Special Agent Ruiz and Sergeant Branick (phonetic) to all  
2 Defense Counsel in the case, with the agreement that this is  
3 for Counsel's purposes right now only; that is, they can read  
4 it themselves, but not to share with their clients at this  
5 point. There have been some questions about that, about how  
6 much they could share a particular fact or a particular type of  
7 information based upon what Agent Ruiz might have testified in  
8 front of the Grand Jury with their clients. I had a  
9 conversation with Mr. Minock about that. I believe the Defense  
10 Counsel met about that prior to this hearing.

11 My only request, since it's simply an agreement between  
12 Counsel at this point, is if they have a question about whether  
13 they could release or discuss certain pieces of information  
14 that's contained in that Jencks material that I've already  
15 given out, please call me and we will work it out and it'll  
16 either be a yes or a no and by the time December 26th rolls  
17 around and we release our Jencks material, it is going to be  
18 the Government's intention that we release it pursuant to the  
19 Protective Order that's already in place in the case; that is  
20 that Counsel can share it with their clients at that point, but  
21 not let them have copies and have copies within the jail and  
22 what-not at that point. You can share, but not give that  
23 material to the clients. That's going to be the Government's  
24 intention. If we don't obtain an agreement with all parties on  
25 that, I will file a motion to that effect and then the Court

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1 will decide exactly how we distribute it. But that's the  
2 Government's intention in terms of how to proceed with the  
3 Jencks now and the Jencks on December 26th.

4 THE COURT: Thank you.

5 MR. SWOR: I understand. We -- at this point I think  
6 we can live with those parameters.

7 THE COURT: Thank you. Anything else?

8 MR. GRAVELINE: The only thing else I would add just  
9 in terms of timing or anything, if we are able to work out any  
10 pleas in Trial Group One, I will communicate to Trial Group Two  
11 that we might have open spots in Trial Group One. So if  
12 somebody wants to raise their hand and say yes, I'd rather go  
13 in Trial Group One as opposed to Trial Group Two, if that  
14 develops I will let everybody know and that way if the Defense  
15 Counsel and Defendant agree that they would rather be in that  
16 group, we'll try to keep it at six. We won't go above six, but  
17 if there's an opening in that and they volunteer, then I'll let  
18 that be known.

19 THE COURT: I'd want to know first.

20 MR. GRAVELINE: Correct.

21 THE COURT: And have the opportunity to think about  
22 whether that is a good way to go or not.

23 MR. GRAVELINE: Okay.

24 THE COURT: Part of the reason for that is we're  
25 having difficulty plotting the placement of tables and places

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1 for the security questions raised by the Marshals we're trying  
2 to deal with, and six is a large number for a group trial it  
3 seems to me. So I'd want to pass judgment on that before you  
4 invite somebody else into that.

5 MR. GRAVELINE: I will also add that if the mitigation  
6 submissions aren't due by January 5th, any Defendant in that  
7 position probably would not be really ready to be moved up into  
8 that Trial Group as well, but I just wanted to put that out  
9 there. There's a potential for that. I mean we haven't had a  
10 plea cutoff date yet for that first group.

11 MR. HENRY SCHARG: May I ask a hypothetical?

12 THE COURT: Yep.

13 MR. HENRY SCHARG: If the death penalty is authorized  
14 against someone in Group One, how will that affect the rest of  
15 the trials?

16 THE COURT: Well, there's only one possible and that  
17 would be Mr. Arnold.

18 MR. HENRY SCHARG: Right. So how that impact?

19 MR. GRAVELINE: I don't it would impact anything that  
20 we've done today. I think Mr. Arnold's trial would go a pretty  
21 good distance into the future then. I would imagine it would  
22 be far more litigation to go on that then, or for any Defendant  
23 who possibly could be authorized.

24 THE COURT: Okay. Anything else that needs to be  
25 addressed?

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1           MR. SWOR: If Washington -- not George -- authorizes  
2 against Mr. Arnold, so be it. But if Washington authorizes, I  
3 think the Court needs to be mindful of this. If Washington  
4 authorizes against anyone in Group Two, then I have some  
5 concerns about my client being tried at the same time.

6           THE COURT: It won't happen. It won't happen if we  
7 have somebody is death eligible in the group who is -- where  
8 the notice is not withdrawn. As long as the -- all of our  
9 scheduling was premised on the idea that the death eligible  
10 Defendants would be tried separately, so --

11          MR. SWOR: The other thing is that I'm concerned that  
12 some of the discovery and certainly some of the Jencks material  
13 may be necessary or useful in motion practice, and shall we  
14 submit then under seal?

15          THE COURT: Well, I would think if it's subject to  
16 this --

17          MR. GRAVELINE: (Interjecting) I think probably the  
18 best practice on that is just to consult with us prior to  
19 filing and we'll discuss -- at that point there will be a  
20 witness list out. We'll already been into trial one. There  
21 will be -- people already have been identified. There will be  
22 statements out. There will be -- so I think the best practice  
23 is if it's still a question, Counsel can either agree or  
24 disagree about the best way to go under seal.

25          MR. SWOR: We'll talk about it because with the

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1 materials that we currently have, I may be filing a motion.

2 MR. GRAVELINE: If it's Grand Jury material then I  
3 would probably say yes, under seal. That would be the  
4 Government's position if it's Grand Jury material. If it's  
5 other types of Jencks because it's a FBI report or something  
6 like that, then maybe we can talk about the best way to handle  
7 that.

8 THE COURT: All right. Anything else?

9 MR. FEINBERG: Judge, my client, Mr. Brown, would like  
10 verification that on December 26th, 2017 that the Government  
11 will be giving us, the attorneys in Group Two, the entire  
12 Jencks material subject to the Protective Order.

13 MR. GRAVELINE: That's correct.

14 THE COURT: We have a matter with Mr. Corey Bailey to  
15 address. The other Defendants could be taken down, but if  
16 you'd rather take them all as a group, they could sit through  
17 the hearing on Mr. Corey Bailey anyway.

18 UNIDENTIFIED U.S. MARSHAL: Your Honor, we'll take  
19 the others.

20 THE COURT: We have a motion filed by Mr. Minock to  
21 withdraw as counsel. Mr. Minock.

22 MR. MINOCK: Judge, Mr. Bailey wrote to you recently.  
23 I sent you a letter. He also sent you a proposed pro se motion  
24 asking to discharge me from the case because he felt the  
25 relationship, the attorney/client relationship was broken and

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1 that he frankly does not trust me. I filed a short motion to  
2 withdraw from the case which I think speaks for itself. You  
3 are familiar with the letter and his pro se motion, and I had a  
4 conversation with him this morning and he said yes, he wanted  
5 me to pursue the Motion to Withdraw. I think he needs to be  
6 appointed a different attorney.

7 THE COURT: All right. Mr. Spielfogel, did you have  
8 anything to offer in connection with this request?

9 MR. SPIELFOGEL: I have nothing to add to the motion  
10 that's been filed, Judge. In that motion he did not ask that I  
11 be removed. I don't know what is going to happen now.

12 THE COURT: So, Mr. Graveline, does the Government  
13 have a position?

14 MR. GRAVELINE: I only have a position inasmuch as  
15 this might affect the other Defendants' trial date. If it's  
16 the Court's -- if the Court grants this, I would simply ask  
17 that it make Mr. Bailey aware that we're going to trial June  
18 5th and that a new attorney might be hampered in getting up to  
19 speed by then, and that it won't effect the fact that he's in  
20 Trial Group Two or the date of Trial Group Two's current trial.

21 MR. BAILEY: Excuse me, Your Honor. We can go to  
22 trial today.

23 THE COURT: Do you want to go to trial today with Mr.  
24 Minock?

25 MR. BAILEY: We can go to trial today. Like I've

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1 been locked up going on four years. So I mean at the end of  
2 the day, I had him going on two years. He haven't (sic) done  
3 nothing for me. He ain't filed no motions on my behalf. He  
4 haven't -- he tell me --

5 THE COURT: (Interjecting) Actually we have a motion  
6 that was recently filed for suppression.

7 MR. BAILEY: He filed that. He filed that after the  
8 fact. I'm quite sure you see the dates on it from when I sent  
9 you the letters which was filed in August. He did that in  
10 September or late August. That was after the fact. In fact,  
11 it was September. Like you know what I mean? As I was saying,  
12 I know he been deceiving me on stuff that is issues that I've  
13 been bringing up to him that he haven't taken (sic) care of.  
14 Them (sic) motions was filed only because I acknowledged that.  
15 Other than that, he wouldn't have sent them. It's in black and  
16 white. It's something that you can't miss. I've been sitting  
17 around being drug through the mud even still. They just pushed  
18 our case. I mean we ready for trial in February. He talking  
19 about a new attorney. Like my attorney, he don't know nothing  
20 about my case it's from when we started. (sic) Since I've been  
21 indicted, it's the same thing. We at ground zero. Haven't  
22 gotten nowhere. I've been asking for evidence on my behalf.  
23 He haven't (sic) went and got it. I've been asking for video  
24 footages he haven't (sic) went and got. He haven't (sic) done  
25 nothing for me.

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1           THE COURT: Most of those issues aren't up to Mr.  
2 Minock individually to undertake. That is, the Government has  
3 disclosure obligations that don't kick in until certain points  
4 in the litigation. The Court has a schedule to maintain, this  
5 case along with a lot of other cases and the bottom line is you  
6 want to replace Mr. Minock because you don't trust him, and  
7 you've apparently threatened filing a grievance and under those  
8 circumstances, you make it difficult for any defense lawyer to  
9 continue and you want new counsel knowing that it may delay  
10 your trial substantially?

11           MR. BAILEY: Trial already been delayed.

12           THE COURT: May not -- may not delay it at all based  
13 on what's happening with a lot of other people who are also  
14 charged in this case.

15           So you're asking the Court to replace Mr. Minock, is that  
16 right?

17           MR. BAILEY: Yes, I definitely am asking for a  
18 replacement.

19           THE COURT: All right. The Court will grant the  
20 motion and will wait to hear from successor counsel. We will  
21 appoint new counsel to represent the Defendant and wait to hear  
22 from successor counsel with respect to what that person needs  
23 in terms of preparation and whether the current trial date now  
24 can be retained. Anything else that we need to address?

25           MR. GRAVELINE: Nothing from the Government, Your

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1 Honor.

2 MR. SPIELFOGEL: Your Honor, we probably should  
3 discuss whether staying on the case at this point in order to  
4 complete at least the mitigation submission and there have been  
5 cases -- there was actually one case here where I then stayed  
6 on for trial, but we're not at that situation at this point,  
7 but I do need some clarification.

8 THE COURT: Well, I think unless or until the Death  
9 Penalty Notice is withdrawn, you should remain and undertake  
10 your mitigation. I recognize you're doing that pretty much on  
11 your own. That may take him out of the queue for trial.

12 MR. SPIELFOGEL: Judge, it's my hope he will go to  
13 trial on the --

14 MR. BAILEY: (Interjecting) Excuse me, Your Honor,  
15 but I mean as we said earlier he just said the reason for us  
16 pushing it back to May was one of the reasons because of me  
17 getting a new counsel and now he talking about it might not be  
18 before June. That was the same excuse he just said when I was  
19 sitting over there if I didn't misunderstand what he said, was  
20 well, we ain't going to be ready in February if they get a new  
21 counsel, so we going to need to push it back to June. (sic)  
22 Everybody on my -- everybody that's in my group is ready to go  
23 to trial in February. So like it's him dragging his feet, so  
24 it ain't -- ya'll don't even know who my lawyer is. You don't  
25 know who going to be appointed. How you know he ain't going to

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1 get in here and get straight to the point and be ready in June?  
2 How you going to make that decision for him?

3 THE COURT: We don't know. Until new counsel is  
4 appointed, we really don't know.

5 MR. BAILEY: 'Cause clearly he been on my case for  
6 two years and he still ain't ready for trial. So how ya'll  
7 going to make that decision for somebody else?

8 THE COURT: Well, the lawyer knows his craft and the  
9 lawyer knows when he's got what he needs and when he doesn't.

10 MR. BAILEY: Don't seem like nobody got what they  
11 need.

12 THE COURT: Well, we'll contact the Federal Defender's  
13 Office to secure a panel lawyer to represent the Defendant and  
14 we'll see where it goes. Thanks.

15 THE CLERK OF THE COURT: Please rise. Court is in  
16 recess.

17 **(Proceedings adjourned at about 1:44 p.m.)**

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**COURT REPORTER'S CERTIFICATION**

STATE OF MICHIGAN)

) SS.

COUNTY OF WAYNE )

I, Janice Coleman, Federal Official Court Reporter, in and for the United States District Court for the Eastern District of Michigan, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in this matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

/S/ JANICE COLEMAN

JANICE COLEMAN, CSR NO. 1095, RPR

FEDERAL OFFICIAL COURT REPORTER

DATED: December 12, 2019

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